CASE NO: 14-55592

IN THE UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD M. HORN, an individual and as Trustee of the Richard M. Horn Trust Dated June 16, 2003, on behalf of himself and all other similarly situated; MARIA GUREVICH, an individual, on behalf of herself, and on behalf of the class of all others similarly situated,

Plaintiffs-Appellees

vs.

BANK OF AMERICA, N.A., a national banking association,

Defendant-Appellee,

SUSAN HOUSE

Objector-Appellant

From the United States District Court for the Southern District of California
No. 3:12-cv-01718-GPC-BLM
The Honorable Gonzalo P. Curiel, Presiding

Motion of Appellant Susan House for an Order Vacating the Dismissal of the Appeal; Memorandum of Law; Declaration of Joseph Darrell Palmer

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Appellant Susan House respectfully requests that this Court vacate its Order of May 13, 2014 dismissing this appeal and reinstate the appeal.

Memorandum of Points and Authorities

Appellant Susan House requests an Order vacating the May 13, 2014, dismissal of this appeal and reinstating her appeal. "A party adversely affected by the court's, or the clerk's, action may file a motion to reconsider, vacate, or modify that action." Ninth Cir. Rule 27(b).

The following facts also support reinstatement of the appeal:

1. Appellant was notified of the dismissal at 10:52 a.m. on May 13, 2014, because of an unpaid filing fee, due on May 8, 2014.

2. Appellant's counsel was unaware of the failure to submit payment because of a calendaring error.

3. Appellant's issues on the appeal will present arguments made in good faith on very important issues from the district court.

4. Appellant filed her mediation questionnaire on April 21, 2014, and the transcript designation form is not due until May 14, 2014. .

5. Appellant should not suffer forfeiture of her appeal because of clerical or logistical mistakes made by her attorney.

6. Appellees will suffer no prejudice if the appeal is reinstated.

7. The briefing schedule will not be adjusted by vacating the dismissal.

8. Appellant will suffer prejudice and permanent harm if her appeal is not reinstated. It would be an inequitable result.

9. Appellant has submitted payment of the appeal in anticipation of the order granting reinstatement of the appeal.

As demonstrated by the attached declaration of Joseph Darrell Palmer, good cause exists for reinstatement of the appeal.

Dated: May 13, 2014

Law Offices of Darrell Palmer PC

/s/ Joseph Darrell Palmer__________
Joseph Darrell Palmer
Attorney for Appellant Susan House

DECLARATION BY JOSEPH DARRELL PALMER

I, Joseph Darrell Palmer, declare that:

1. I am an attorney admitted to practice before all the Courts of the State of California, the United States District Court for the Southern District, and the Ninth Circuit Court of Appeals. I have personal knowledge of the facts as set forth and if called upon to testify could competently do so.

2. This Declaration is made in support of the movant's request for an order reinstating her appeal.

3. I have informed all counsel for appellees about my intent to request the relief. They will likely oppose the motion.

4. This request is necessitated due to the fact that Appellant's counsel was unaware of the failure to submit payment because of a calendaring error, and because I have been preparing for trial in USDC, SDNY which begins on May 16. This motion is being filed within hours of the dismissal and the fees have been tendered today (USDC CASD Receipt No. 0974-7026569).

5. This motion is sought for good cause and not solely for the purpose of delay. The parties are not prejudiced by the reinstatement of this appeal.

6. I have paid the fee online in the hope the appeal will be reinstated and apologize to the court for the inconvenience.

7. The court reporter is not in default with regard to any designated transcripts. The transcript designation is not due until May 14, 2014.

I declare under penalty of perjury, under the laws of California and the United States of America, that the foregoing it true and correct.

Executed this 13th day of May 2014, at Carlsbad, California.

_/s/ Joseph Darrell Palmer____________
Joseph Darrell Palmer

CERTIFICATE OF SERVICE

I certify I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on May 13, 2014, and all registered CM/ECF users will be served by the appellate CM/ECF system.

/s/ Joseph Darrell Palmer____________
Joseph Darrell Palmer